

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JOHNNY CYRUS,	:	No. 3:06-CV-02022
	:	
Plaintiff,	:	(Judge McClure)
	:	
v.	:	(Magistrate Judge Blewitt)
	:	
UNITED STATES	:	
OF AMERICA, et al.,	:	
	:	
Defendants.	:	

ORDER

December 5, 2006

Plaintiff is an inmate at the Federal Correctional Institution at Allenwood, White Deer, Pennsylvania (“FCI-Allenwood”). On October 16, 2006, plaintiff filed pro se this instant civil rights action, alleging a First Amendment retaliation claim and Eighth Amendment cruel and unusual punishment claim against defendants. Specifically, plaintiff alleges he was purposefully put in harms way when prison officials placed him on a hill while he was confined to a wheelchair. Although its not clear how, plaintiff alleges he sustained significant injuries as a result of being placed on the hill. He further states he was placed on the hill in part because of the various lawsuits he has filed. He also asserts that he did not receive adequate medical treatment for his injuries.

This matter was initially referred to United States Magistrate Judge Thomas M. Blewitt.

On October 27, 2006, the magistrate judge issued his thorough sixteen page report and recommendation. The magistrate judge recommends that the complaint be dismissed against all named defendants - defendants United States of America, warden Karen Hogsten, and health administrator Robert Laino. The magistrate judge reasons that the United States of America cannot be sued in this matter, and that Hogsten and Laino cannot be sued because there are no facts alleged that suggest either plaintiff was involved in the incidents described in the complaint. The magistrate judge recommends the plaintiff amend his complaint to replace the originally named defendants with the proper defendants. The magistrate judge also recommends the plaintiff's claims for specific amount of damages be stricken from the complaint, and that the matter be remanded for further proceedings with the magistrate judge.

Plaintiff has not filed any objections to this report and recommendation. Instead, the plaintiff filed an amended complaint that replaced the originally named defendants with new parties.

We will adopt the magistrate judge's report in full. We note that plaintiff has already filed his amended complaint that seems consistent with the magistrate

judge's recommendations. Therefore, we will remand plaintiff's amended complaint to the magistrate judge for further proceedings.

NOW, THEREFORE, IT IS HEREBY ORDERED THAT:

1. The court adopts in full the magistrate judge's report and recommendation.
(Rec. Doc. No. 10).
2. Plaintiff's amended complaint is remanded to the magistrate judge for further proceedings.

s/ James F. McClure, Jr.
James F. McClure, Jr.
United States District Judge